UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/2000/SR.16
16 November 2001

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

Fifty-second session

SUMMARY RECORD OF THE 16th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 11 August 2000, at 10 a.m.

Chairperson: Ms. MOTOC

CONTENTS

HUMAN RIGHTS OF INDIGENOUS PEOPLES

(a) INDIGENOUS PEOPLES AND THEIR RELATION TO LAND

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Sub-Commission at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.00-14861 (E) 290501 161101

The meeting was called to order at 10 a.m.

HUMAN RIGHTS OF INDIGENOUS PEOPLES

(a) INDIGENOUS PEOPLES AND THEIR RELATION TO LAND (agenda item 7) (E/CN.4/Sub.2/2000/25, 26, CRP.1, CRP.2; E/CN.4/2000/84, 85, 86; E/CN.4/Sub.2/1998/18, 19, 20; E/CN.4/Sub.2/AC.4/2000/3, 4; A/54/487 and Add.1)

1. Mr. ALFONSO MARTINEZ, speaking in his capacity as Chairperson-Rapporteur, introduced the report of the Working Group on Indigenous Populations on its sixteenth session (E/CN.4/Sub.2/2000/CRP.2). He announced that a total of 1,027 people had taken part in the discussions during the session, which had been held from 24 to 28 July 2000.

2. The discussions, which were summarized in chapter II of the report, had concerned indigenous children and youth, with particular reference to: identity, name and registration; poverty; health, well-being and survival; suicide; substance-abuse; education; housing; land; removal from family environment and community; administration of justice; effects of armed conflict, and refugees.

3. Chapter III contained general statements on issues such as land problems, education and health.

4. Chapter IV dealt with the Group's responsibility for standard-setting in areas such as natural resources, energy, mining companies, land, indigenous peoples' relation to the land and the protection of their heritage.

5. Chapter V was devoted to the preparations for the World Conference against Racism. Paragraph 175 reported on the participation of Ms. Rigoberta Menchu, Nobel Peace Prize winner, in one of the Working Group's meetings and on the warm welcome she had received.

6. Chapter VI concerned the International Decade of the World's Indigenous People. The view had been expressed in the Working Group that far more needed to be done during the remainder of the Decade than had been done during the first half. The High Commissioner for Human Rights had given an assurance that she would do all she could to give a new impetus to activities in the framework of the Decade.

7. A number of participants had said that, while they welcomed the Economic and Social Council's approval for the establishment of the permanent forum for indigenous peoples, the creation of that body should not lead to the abolition of the Working Group.

8. Chapter X enumerated the Working Group's conclusions and recommendations. The recommendations would be submitted to the Sub-Commission for its approval in the form of draft resolutions or decisions.

9. A number of drafting amendments should be made to the report, which was available only in English. In paragraph 24, the words "Tupak Katari" in the third line should read

"Tupak Amaru". In paragraph 213, the words "on indigenous issues" should be added in the third line after the word "round-table". In paragraph 215, the words "to the Sub-Commission" should be inserted in the third line after the word "proposals" and the words "with respect to the World Conference" should be added at the end of the paragraph.

10. Ms. DAES thanked Mr. Alfonso Martinez for his introduction of the Working Group's report on its eighteenth session. Observing that the report contained no mention of the establishment of the permanent forum for indigenous peoples, she proposed the addition of a passage reading: "The Working Group expresses its deep gratitude to the Commission on Human Rights for its resolution 2000/87 on the establishment of a permanent forum for indigenous people. According to this resolution, the permanent forum is to serve as an advisory body to the Economic and Social Council, with a mandate to discuss indigenous issues on economic and social development, culture, health and human rights. It will be the most effective mechanism for the protection of indigenous rights and for their active and free participation in development".

11. The Working Group must mention the establishment of the forum, for it constituted an historic event.

12. With regard to paragraphs 205 and 225 of the report, she had officially proposed during the eighteenth session that the main item to be discussed during the nineteenth session should be entitled "Indigenous peoples and their right to, and participation in development". She would therefore like the paragraphs in question to be amended accordingly.

13. Mr. ALFONSO MARTINEZ expressed surprise that Ms. Daes had not proposed her amendments earlier. As the Working Group's Chairperson-Rapporteur, he would submit her proposed passage concerning the permanent forum to the other members of the Group and, if they agreed, request the secretariat to include it in the report.

14. Regarding paragraphs 205 and 225, he had understood that it had been left to Ms. Daes and the secretariat to agree on wording satisfactory to Ms. Daes. He would have no personal objection to the paragraphs' being amended as she had proposed.

15. Mr. EIDE said that the Sub-Commission could be proud of its work over the past 20 years, of which Mr Martinez Cobo's study had marked the beginning. He himself had proposed the establishment of a working group on indigenous people in 1981 and had chaired the body for the first three years of its existence, before Ms. Daes had so competently taken on the role.

16. The Working Group had enabled indigenous populations to influence the United Nations as never before.

17. The forthcoming establishment of a permanent forum for indigenous populations would be an historic event and would represent a considerable step forward by comparison with the Working Group. Unlike the Working Group, which comprised members of the Sub-Commission, the permanent forum would be made up of representatives of indigenous

peoples themselves. It would seem logical, therefore, that the Working Group should give way to the forum. Thanks were due to the Commission on Human Rights and the Economic and Social Council for having taken the historic decision to set up the forum.

18. He hoped that the Commission on Human Rights would adopt the draft declaration on the rights of indigenous peoples as soon as possible. That would be a decision of vital importance for the permanent forum.

19. Mr. GUISSÉ thanked Mr Alfonso Martinez for his introduction of the Working Group's report and supported the amendments proposed by Ms. Daes, who deserved a ringing tribute for her action in support of indigenous peoples.

20. He hoped that closer attention would be given in future work on indigenous peoples to the interests of the indigenous peoples of Africa.

21. Ms. MBONU thanked the Working Group and its successive chairpersons for their efforts on behalf of indigenous peoples' rights.

22. She found it surprising that the Working Group's report on its eighteenth session contained no mention of the establishment of the permanent forum for indigenous peoples. Indigenous peoples' representatives were unanimous in considering the establishment of the forum, and the draft declaration on the rights of indigenous peoples, to be priorities to be achieved before the close of the International Decade.

23. There were, however, differences of opinion within the indigenous community as to whether the Working Group should continue in existence.

24. As representatives of indigenous peoples were present at its current session, the Sub-Commission should allow them to speak on the matter before it took any decision.

25. Ms. DAES said in introducing, in her capacity as the seminar's Chairperson-Rapporteur, the report of the seminar on the draft principles and guidelines for the protection of the heritage of indigenous peoples (E/CN.4/Sub.2/2000/26) that the seminar had been held in Geneva from 28 February to 1 March 2000.

26. She expressed her profound thanks to the High Commissioner for Human Rights, Ms. Robinson, without whom the seminar could not have been held. It was principally thanks to Ms. Robinson's efforts that funding for the event had been forthcoming.

27. The seminar had been attended by numerous representatives of indigenous peoples from various parts of the world, a number of government observers, representatives of the World Bank, UNESCO, UNICEF, WHO and WIPO and academics.

28. To facilitate progress, two drafting groups had been set up: the first, headed by Mr. Wiessner, had worked on the principles and the second, headed by Ms. Battiste, on the guidelines. The principles and guidelines had then been further elaborated in the presence of the representatives of the specialized agencies attending the seminar.

29. The participants had approved the Special Rapporteur's recommendation that the draft principles and guidelines should be submitted to the Commission on Human Rights.

30. Mr. BENGOA paid tribute to the Working Group on Indigenous Populations and to Ms. Daes for their important work. The Working Group had enabled hundreds of indigenous leaders to meet, share their experience and enhance their knowledge.

31. It was now certain that the venue for the discussion of matters relating to indigenous peoples would be the permanent forum that would shortly be set up. He hoped that the forum would be given the time and the resources needed to discharge its task.

32. The establishment of the forum would affect the Sub-Commission's future agenda. To avoid duplicating the new body's work, the points to be examined in that regard should be clearly defined at the current or the next session.

33. The Sub-Commission should take action on the draft United Nations declaration on the rights of indigenous peoples. The report of the working group established in accordance with Commission on Human Rights resolution 1995/32 (E/CN.4/2000/84) was of great importance in that regard since it revealed that States had, for the first time, formally examined the question of indigenous peoples' right to self-determination. It was stated in paragraph 82 of that report that "the right to self-determination was the cornerstone of the draft declaration". He regretted that the declaration had not yet been finally adopted and proposed that the matter should be included in the Sub-Commission's agenda. The Sub-Commission, which had already adopted the draft declaration, should urge the Commission on Human Rights promptly to do the same. Ideally, adoption of the declaration should have coincided with the establishment of the permanent forum, for which it could be said to provide the legal framework.

34. Ms. WAKIN (North-South XXI) said that recognition of indigenous peoples' rights had advanced markedly in the past decade. Numerous resolutions had been adopted and numerous legal mechanisms had been created for the defence of indigenous peoples' civil, political, economic, social and cultural rights. Notwithstanding, many States continued to elude specific issues that seriously affected indigenous peoples' daily lives. The Sub-Commission should therefore take steps to ensure that the international community's resolutions and decisions were genuinely applied and should call on multinational corporations scrupulously to respect indigenous peoples' rights, particularly their right to land. In many Latin American countries, private and semi-public companies alike deprived indigenous communities of their land and destroyed their environment. Indigenous peoples who were dispossessed in this way found themselves rootless, stripped of their identity and victim to a poverty even greater than material poverty, poverty of the spirit.

35. Mr. DARMI (Netherlands Organization for International Development Cooperation) said that it was indigenous communities that had been the most harmed by the development policies in Indonesia during the past three decades. The Indonesian Government refused to use the term "indigenous" because it considered all Indonesians except ethnic Chinese to be indigenous.

36. In the economic field, laws had been adopted that had the effect of placing indigenous communities' natural resources and land under government control. The Basic Agrarian Law,

which stated that land rights could not be in conflict with national interests, provided the State with a broad legal basis for land seizures. The military and other interest groups used intimidation to acquire land for development projects, especially in areas inhabited by indigenous people. Compensation for land was minimal or non-existent. Large areas in central Kalimantan had been designated as transmigration areas, forcing thousands of indigenous people to leave their land and give up their traditional way of life. His organization called on the Indonesian Government to ratify as soon as possible ILO Convention No. 169 concerning indigenous and tribal peoples.

37. Mr. CONDORI (Indian Council of South America) welcomed the establishment of the permanent forum for indigenous peoples, but expressed concern at the intended method of selecting the eight representatives of indigenous organizations.

38. In Bolivia's Viacha region, which was inhabited by indigenous peoples, the army's firing of heavy weapons was a cause of serious damage. Action such as that by the army breached the rights of indigenous peoples enshrined in ILO Convention No. 169, which the Bolivian Government had ratified. Elsewhere in Bolivia, interethnic conflict had cost some 60 lives. Such incidents were certainly linked to the extreme poverty of the people concerned, but they were above all the consequence of the colonial-era disruption of their traditional way of life.

39. Mexico was the scene of serious, systematic and recurrent violations of indigenous peoples' rights and fundamental freedoms. His organization hoped the Sub-Commission would appeal to the Mexico authorities to respect human rights and release political prisoners and that it would recommend to the signatories of the San Andres Accords the resumption of dialogue and the discharge of their written undertakings. It also hoped that the Working Group on Indigenous Populations would take up in 2001 the question of the development of indigenous peoples, particularly as regarded the environment and land.

40. Mr. HALEPOTA (Interfaith International) denounced government policy in Sindh, an area of Pakistan with approximately 45 million inhabitants. The region had recently been affected by a severe famine during which many people, especially children, had died from hunger and disease. In addition, the allocation of millions of hectares of land to generals in the Pakistan Army had forced local people to abandon their ancestral villages and the building of dams on the Indus was depriving them of water. Sindh's natural resources were being exploited by oil companies for the benefit of members of the armed forces although the majority of the local people were living in poverty. The region contributed 60 per cent of Pakistan's budget but received only 2 per cent of national revenue in return. In the latest national budget, 25 per cent had been devoted to defence and only 0.5 per cent to health and education. The population of Pakistan needed medicines, food, hospitals and schools, but the Government was conducting nuclear tests.

41. The military Government of Pakistan was pursuing a policy of transforming the identity and traditions of Sindh at gunpoint. The region's indigenous population demanded recognition of its right to self-determination in accordance with international covenants and conventions. As a Member of the United Nations, Pakistan must abide by international law and its commitments, otherwise it would become the responsibility of the international community to ensure the basic

rights of the people of Sindh, as it had done in, for example, Bosnia, Kosovo or East Timor. The continuing violation of human rights in Sindh made an impartial United Nations fact-finding mission to the region essential.

42. Mr. DAHL (Inuit Circumpolar Conference) said that, since the establishment of the Working Group on Indigenous Populations in 1982, indigenous peoples had been able to make their voice heard and had won more and more attention from the international community. However, their fundamental rights had still not been fully recognized. Since the elaboration in 1994 of the draft declaration on the rights of indigenous peoples, there had been little progress towards its adoption. It was to be hoped that the instrument would be adopted before the end of the International Decade of the World's Indigenous People.

43. His organization welcomed the adoption at the Commission on Human Rights' fifty-sixth session of the resolution on the establishment of a permanent forum on indigenous issues and the subsequent endorsement of the resolution by the Economic and Social Council. That endorsement showed that Governments were ready to establish a new partnership with indigenous peoples. The establishment of the forum would put indigenous peoples and Governments on an equal footing and should incite the United Nations to promote peace, justice and sustainable development amongst all the world's peoples.

44. Ms. PARKER (International Educational Development) said that, while progress had been made internationally on issues of relevance to them, indigenous peoples were still far from having adequate domestic remedies. That was apparent from a recent decision of the High Court of Australia denying the applicability of the law of genocide.

45. The Aboriginal peoples of Australia had always had a totemic relationship with the land; to deprive them of their land was therefore to destroy them. Following the adoption in 1993 and 1998 of two laws stripping them of their title to land, they had brought lawsuits alleging that removal of their land constituted a contemporary form of genocide. The several courts that had ruled on the matter had insisted that, although Australia had ratified the Convention on the Prevention and Punishment of the Crime of Genocide, it had not incorporated it into municipal law. That opinion denied not only the *jus cogens* status of the rules concerning genocide but also the *erga omnes* obligations defined by the International Court of Justice in the Barcelona Traction case. It should be noted that the genocidal acts in question had occurred long after the adoption of the Genocide Convention.

46. Her organization shared the concern expressed by Ms. Daes following her mission to Mexico at the increasing militarization of Chiapas, Guerrero and Oaxaca, three indigenous areas. There was a risk that the August 2000 elections to State governorships would have tragic consequences. International Educational Development therefore urged the Sub-Commission to monitor the situation closely and, in particular, to send a representative to Chiapas during the critical period.

47. Mr. DEER (Indigenous World Association) thanked the Sub-Commission for the role it had played 10 years earlier in a dispute between the Quebec and Canadian Governments and the Mohawks. The cooperation that the Sub-Commission had promoted between itself and the Canadian Government had defused the crisis and brought about its peaceful resolution.

48. He emphasized that the Sub-Commission and the Working Group on Indigenous Populations were important to indigenous peoples. That was so because indigenous peoples had few avenues for gaining world attention and there was no certainty that the permanent forum on indigenous issues would be the answer to all their problems. It was not known who the forum's members would be and there was no guarantee that the Economic and Social Council would act on its recommendations. That the Working Group on Indigenous Populations might be dissolved once the forum was established was, given the Group's contribution in the sphere of human rights, unacceptable. The Working Group was a valuable part of the human rights system, with achievements including the draft declaration on the rights of indigenous peoples, the International Year for, and the International Decade of the World's Indigenous Peoples and the study on treaties between indigenous peoples and States.

49. Unlike the permanent forum, the Working Group had a mandate to develop international standards. Moreover, it had a future within the Sub-Commission, which, to show that indigenous peoples were not merely an "issue", should recommend that it be renamed the Working Group on Indigenous Peoples.

50. Mr. PARV (Indian Movement "Tupaj Amaru") expressed disappointment at the results of the International Decade of the World's Indigenous People and, in particular, at the egoism and hypocrisy of the rich countries of the North and the indifference of the ruling elites in the South. The United Nations Voluntary Fund for the International Decade of the World's Indigenous People was, for example, a merely symbolic device that once again put Indians in a position of wretchedness that was an affront to their dignity. There was no justification for the purported lack of resources, since the military Powers were spending 700 million dollars a day on making weapons of mass destruction. The Earth Summit in the context of the International Decade was crucial to the survival of indigenous peoples, who would have no power until they could exercise their rights of collective ownership over their land and natural resources. The Sub-Commission should look into the role of the Voluntary Fund, as well as into the selective criteria employed in subsidizing certain projects.

51. He was concerned about the future of the Working Group on Indigenous Populations, which had been in existence for 18 years and was democratically open to indigenous organizations whether or not they were in consultative status with the Economic and Social Council. The establishment of the permanent forum for indigenous peoples should not be considered incompatible with the Working Group's mandate. The two bodies were not mutually exclusive, but complementary. The Working Group should, pursuant to its mandate under Economic and Social Council resolution 1982/34, continue to review developments pertaining to the promotion and protection of he human rights and fundamental freedoms of indigenous people, giving special attention to the evolution of standards concerning the rights of indigenous people. To that end, it should be given new standard-setting tasks, its working methods should be amended and its membership should be enlarged to include indigenous experts. Regarding the permanent forum, indigenous representatives' constructive proposals had not been properly taken into account by the open-ended inter-sessional working group. Those proposals did not figure either in the Special Rapporteur's report or in the Commission's resolution. As always, States were more interested in indigenous issues than in indigenous peoples, who should not accept either paternalism or interference or manipulation from Governments or bodies that did not share their interests.

52. Ms. SPALDING (World Federation for Mental Health) said that her Federation had taken note of the Economic and Social Council's approval of the establishment of the permanent forum and would take a close interest in the forum's activities. She emphasized that the mandate of the Working Group on Indigenous Populations was of a different nature and essential to the protection of indigenous peoples' interests and basic human rights. Her Federation, which was especially sensitive to transgeneration representation, from youth through elders, urged the Sub-Commission to keep the Working Group in being and would welcome the change of the Group's name to Working Group on Indigenous Peoples. She reiterated the Federation's support for the World Indigenous Nations Games and for the proposal made recently on the International Day of the World's Indigenous People for the annual holding on 9 August of a world indigenous haute couture gathering.

53. Mr. LEBLANC (Franciscans International), speaking on behalf of his own organization and of Dominicans for Justice and Peace, said that the experiences of indigenous peoples in the Sierra Tarahumara and Selva Lacandona regions of Mexico provided an example of how Governments violated indigenous peoples' fundamental rights to the benefit of transnational corporations. In those regions, pressure from paramilitary groups had forced entire indigenous families to leave their villages. The organizations he represented called on the Sub-Commission to urge the Mexican Government to honour its international commitments regarding indigenous peoples. Indigenous populations in the Philippines were having to endure similar hardships to their Mexican counterparts.

54. The Sub-Commission should encourage States to recognize indigenous peoples' title to land and land-use rights, as well as indigenous communities' deep-seated links with the land. It should also place greater emphasis on the role of transnational corporations in the infringement of indigenous rights. In that regard, the organizations he represented supported the principle that business and industry should contribute financially and otherwise to the development of educational and research institutions controlled by indigenous peoples.

55. The establishment of the permanent forum on indigenous peoples was welcome and would, he hoped, enable indigenous peoples to participate in decisions affecting their welfare and development. Although the right to development was formally caught up in political debates in the international community, the actions of civil society actors, makers of domestic law and even national Governments showed that they were beginning implicitly to recognize that right.

56. Mr. ALFONSO MARTINEZ remarked that the idea of establishing a permanent forum for indigenous populations had first emerged in 1993, after the Vienna World Conference on Human Rights. There was, however, already a body of the kind in question, the 18-year-old Working Group on Indigenous Populations being not an ad hoc body, but a permanent one inasmuch as it was almost automatically re-established each year. The Working Group's function was twofold: to review developments pertaining to the promotion and protection of indigenous populations' human rights and fundamental freedoms and to set relevant standards. The decision to establish a permanent organ was based on the idea that once the Working Group had finished drawing up the draft United Nations declaration on the rights of indigenous peoples its work would be over. That, however, was not consistent with the Economic and Social Council's mandate for the Group. The Working Group was a meeting place where views could be exchanged and problems compared; in addition, it had, through a variety of international

texts, increased public awareness of indigenous peoples' problems. It was no welcome matter that the Group's life was coming to an end: its activities might cease in two to three years, or even earlier. Furthermore, nothing could prevent the Commission or the Economic and Social Council from deciding in a few years' time that there was no more reason to keep the permanent forum. Like the Working Group, the permanent forum would only be able to make recommendations. Suppressing the Working Group and the permanent forum would not make the problems go away.

57. Mr. ORELLANA (Latin American Human Rights Association), speaking on behalf of his own and other non-governmental organizations of Latin American indigenous peoples, expressed deep gratitude to Ms. Daes for the report she had written following her mission to Mexico. Particular attention should be paid to the appeal by indigenous women from Mexico, a country where, as Ms. Margarita Gutierrez, a member of the National Coordination of Indigenous Women, had already said in her statement, indigenous people, especially women, were the particular victims of poverty and discrimination.

58. Communities in Guatemala, Peru and Ecuador were undergoing great suffering, and Amazonian peoples were even disappearing. In the case of Colombia, the Organization of Indigenous Peoples of the Colombian Amazon had reported that a process of destruction of indigenous peoples was under way: having begun with the European presence on indigenous land, it had continued in various forms during the conquest, colonization and the republican period. It was almost as if, because of Colombia's internal conflict, the indigenous peoples of the Colombian Amazon were doomed to disappear without the United Nations and the international community having done their utmost to prevent that. Indigenous peoples accounted for 2 per cent of Colombia's population. Of 30 million hectares of indigenous land in the country, some 6 million were rich in minerals, oil and timber. There were numerous infrastructure projects that were potentially fatal to indigenous peoples. Of the 52 ethnic groups in the Colombian Amazon, 54 per cent numbered less than 500 people each, 28 per cent numbered more than 1,000 people each, and only 6 had a membership of more than 5,000. The violence in Colombia affected indigenous families and communities in particular: over the past 25 years, more than 500 indigenous leaders had been murdered for political reasons. The violence was exacerbated by the repression of people who grew and trafficked in illicit crops. As a member of a Colombian indigenous community had put it, "In Latin America, most martyrs are indigenous people and as they are indigenous, nobody knows about it".

59. Ms. BANDETTINI DI POGGIO (International League for the Rights and Liberation of Peoples) summarized the history of the Western Shoshone, who possessed land in Nevada, California, Idaho and Utah. Despite having signed a treaty with them in 1863, the United States of America denied those people their land rights. The denial was based on a discriminatory ruling that the Western Shoshone's land rights had been extinguished. The Western Shoshone had not been allowed to contest that extinction or to take part in the proceedings. They had refused the proposed monetary compensation on the grounds that they had never sold, ceded, lost or abandoned their land. They had been deprived of all control over their ancestral lands, which were being exploited by transnational corporations or contaminated by nuclear testing. Her organization therefore fully supported the Western Shoshone's appeal to the Sub-Commission to investigate the situation and to call upon the United States to put an immediate end to all activities damaging that people.

60. The International League also hoped the Sub-Commission would include in the agenda for the nineteenth session of the Working Group on Indigenous Populations the topic of globalization and the impact of transnational corporations on indigenous peoples. That would add to the Sub-Commission's inter-sessional debate on srch corporations. The question of the Framework Convention on Climate Change, particularly as regarded persistent organic pollutants, was of grave concern to indigenous peoples. Pending the establishment of the permanent forum, the Sub-Commission should appoint a special rapporteur on indigenous peoples. The establishment of the forum should in no way mean the death of the Working Group on Indigenous Populations.

61. Mr. CORBYN (Liberation) said that indigenous people in several parts of the world had been denied their right to land. In Australia, the positive effect of past Governments' efforts to the redress injustices relating to land had been reversed by recent court judgements and the authorities' refusal to allow indigenous peoples to exercise the limited rights that the law did recognize to them.

62. In Mexico, the people of Chiapas had seen their land encroached on, their houses and natural resources destroyed and their freedom of movement in their own territory denied by the security forces. In Bangladesh, the indigenous Jumma peoples of the Chittagong Hill Tracts had been oppressed for centuries and were seriously threatened by the presence in their region of government forces and settlers. In India, struggles by indigenous people in a number of areas had been harshly suppressed in violation of international norms, resulting in the death of thousands of people. Similarly, in Pakistan successive Governments had used excessive force in countering the aspirations of the peoples of Sindh and Baluchistan.

63. The human rights violations occurring in southern Asia and Latin America were so serious that the Sub-Commission should appoint a special rapporteur to monitor the situation of indigenous people in those regions.

64. Ms. LEURINDA (World Federation of Methodist and Uniting Church Women) introduced the Declaration of the International Indigenous Women's Forum which the more than 100 indigenous women who had attended a follow-up conference in New York to the Beijing Conference had adopted on 9 June 2000. The new Declaration reaffirmed the 1995 Beijing Declaration of Indigenous Women.

65. The new document emphasized the importance of indigenous peoples' collective rights to land, natural resources and intellectual property. It observed that, five years after Beijing, indigenous women were still living in extreme poverty, were still facing a decline in health, education, social, economic, cultural and political conditions and were increasingly at risk from violence and trafficking.

66. It further observed that indigenous peoples were being displaced and their lives endangered by the exploitation of natural resources and the dumping of nuclear waste and toxic and hazardous materials in their lands and territories.

67. The new text urged United Nations member States to adopt without delay and in its present form the draft declaration on the rights of indigenous peoples. It called on Governments

to honour the commitments to indigenous women that they had made in the Beijing Platform for Action and to ratify and implement all international instruments pertaining to indigenous peoples. It appealed for the eradication of poverty among indigenous peoples to be made a priority. It urged Governments to ensure that indigenous women were able to participate fully in decision-making concerning their peoples and called on Governments, agencies and institutions to address, with the full participation of indigenous peoples themselves, the issue of displacement of indigenous peoples, including conflict resolution and reparations.

68. Mr. JAMES (International Human Rights Association of American Minorities - IHRAAM) said that the indigenous peoples of Alaska, including his own people, the Kuiu Kwáan, were under serious threat, the United States Supreme Court having adopted a law providing for the extinction of indigenous title to submerged land. The decision in question had circumvented legal protocols and procedures, cases pending before the Alaska Superior Court and United Nations General Assembly resolutions, covenants and accords and had been taken without notification to the traditional indigenous governments. It had been taken although documents in the United States National Archives proved that indigenous peoples, including his own, held allodial title to their ancestral lands.

69. The Kuiu Kwáan had exhausted local legal remedies. They had sought relief under a United States statute, but the trial court had denied them a hearing.

70. He hoped the Sub-Commission would do everything in its power to prevent indigenous peoples from being deprived of their land. He also hoped it would accept the Working Group's recommendation that it should sponsor in the near future a regional conference for African Americans.

71. His organization was keenly aware of the problems affecting the indigenous peoples of Kashmir. It appealed to the Governments of India and Pakistan to cease their encroachments on those peoples' territory and to allow them peacefully to pursue self-determination.

72. Ms. MARKINA (Observer for Ukraine) said that her country's history had been marked by injustice and dictatorship. Some 50 years prior to the present day, thousands of people, including indigenous peoples, had been deported. It was among the current Government's most urgent tasks to facilitate the return and integration into society of those people and their families. Since becoming independent, Ukraine had adopted legislation guaranteeing the rights of indigenous peoples and ethnic groups persecuted and oppressed under the Communist regime.

73. The recent establishment under the authority of the President of Ukraine of the Consultative Council of Crimean Tatars and the implementation of numerous decisions of the Cabinet of Ministers of Ukraine and the Government of the Crimea should help to resolve the problems relating to the returnees' resettlement. One of the decrees in question provided for the establishment of a pool of experts of Tatar nationality who would be considered priority candidates for posts in the administration of the Autonomous Republic of Crimea and for the allocation of additional land to rural Tatars.

74. Mr. WEISSBRODT said that the Working Group on Indigenous Populations was one of the most dynamic organs within the context of the Sub-Commission and, indeed, within the United Nations. It attracted substantial numbers of people to its sessions and had created an awareness of indigenous issues. Much of its growth and many of its accomplishments during its 18-year history were attributable to the leadership afforded by Mr. Eide and Ms. Daes. Thanks to them, the Working Group had become one of the United Nations most prominent human rights mechanisms.

75. Emphasizing the importance of the draft declaration on the rights of indigenous peoples, he urged the Commission on Human Rights to see beyond the difficulties that had hampered discussion of the text and to begin with non-governmental organizations and indigenous peoples a constructive dialogue leading to its adoption. The Commission had been reviewing the draft declaration for six years, but considerable obstacles remained. As indigenous participants had paved the way by agreeing to consider some changes to the text, it was to be hoped that further progress would be made in the meetings of the open-ended working group.

76. During the past couple of years, Governments had drafted several provisions separately and there was therefore a risk that the declaration would be elaborated without indigenous participation. To facilitate future negotiations, Governments should clearly indicate their commitment to the principle of indigenous self-determination, which did not imply the right to secede.

77. He hoped that the permanent forum for indigenous peoples would not simply replace the Working Group on Indigenous Populations but would instead be a place where indigenous peoples and States could meet to try to resolve their differences. He also hoped that the forum would include non-governmental organizations that did not have consultative status.

78. He was pleased that the forum would give indigenous peoples a greater place in the United Nations system. The forum would have an important role to play on issues such as land and resource rights, institutionalized discrimination, and self-determination. It should also pay special attention to issues related to economic, social and cultural rights, where the very existence of some indigenous peoples might be in peril.

79. Ms. RODRIGUEZ (Observer for Guatemala) said that, after a 36-year conflict which had affected all Guatemalans, it was time to build a genuinely democratic State. The Accord on indigenous rights was proving particularly difficult to implement. President Portillo had taken steps to move things forward by appointing indigenous people to senior government positions; for example, the Minister of Culture and the country's Ambassador to Norway were indigenous women.

80. The Government was placing great emphasis on education and had therefore drawn up a curriculum in the country's 23 languages. It had also given priority to the provision of housing for the most disadvantaged population groups, set up in remote communities a prevention-oriented health programme and established a department for the defence of indigenous women.

81. Regarding international action, the Government had pledged to cooperate with the country's indigenous peoples in calling within United Nations organs for the adoption of the draft declaration on the rights of indigenous peoples. It was also working for the establishment of the permanent forum for indigenous peoples recently approved in New York.

82. In April of the current year, Guatemala and Mexico had jointly submitted to the Commission on Human Rights a draft resolution on item 15 of the Commission's agenda entitled "Indigenous issues" (E/CN.4/2000/L.63). That draft resolution took into account the Sub-Commission's recommendation for the appointment of a special rapporteur on the situation of the human rights and fundamental freedoms of indigenous people.

The meeting rose at 1 p.m.

UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/2000/SR.17
18 September 2000

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

Fifty-second session

SUMMARY RECORD OF THE 17th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 11 August 2000, at 3 p.m.

Chairperson: Ms. MOTOC

CONTENTS

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Sub-Commission at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.00-14857 (E)

CONTENTS (continued)

COMPREHENSIVE EXAMINATION OF THEMATIC ISSUES RELATING TO THE ELIMINATION OF RACIAL DISCRIMINATION:

(a) SITUATION OF MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES;

(b) XENOPHOBIA;

(c) WORLD CONFERENCE AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE (continued)

The meeting was called to order at 3.05 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 2) (continued) (E/CN.4/Sub.2/2000/L.9)

Draft resolution on human rights and humanitarian consequences of sanctions, including embargoes (E/CN.4/Sub.2/2000/L.9)

1. Mrs. DAES said that she was introducing the draft resolution on behalf of a large number of sponsors. It was based solely on humanitarian considerations and avoided mentioning any country that was actually a target of sanctions in order to avoid politicization. The Sub-Commission was simply expressing humanitarian concern regarding the plight of civilian populations, especially vulnerable groups.

2. She announced two revisions to the text. The words "on populations" should be inserted after "embargoes" in the last preambular paragraph and the word "minimize" should be replaced by "eliminate" in paragraph 1 (b).

3. Mrs. WARZAZI said that, while she appreciated the humanitarian considerations that had motivated the sponsors of the draft resolution, she had not joined them because she thought that the sentiments it contained should be more forcefully conveyed. For example, the statement in the fourth preambular paragraph that "the international community must do everything possible to protect at least the core content of the economic, social and cultural rights" was so weak as to be virtually meaningless. The meaning of "the core content" was very obscure. The Sub-Commission and other bodies had stressed time and time again that no rights were less important or more important than others. Although the wording was that of the Committee on Economic, Social and Cultural Rights, she thought it should be amended.

4. In paragraph 1, the Sub-Commission appealed to the Commission on Human Rights to "consider recommending" certain behaviour. It would be more courageous to say "recommend" without further qualification. Again, the Security Council was to be asked, in paragraph 1 (b), to "consider restructuring sanctions regimes". Restructuring was not the appropriate remedy for the undesirable effects of sanctions. She was shocked by the reference in the same subparagraph to ensuring "adequate" access to food when such access should clearly be unrestricted.

5. The attempt to avoid politicization was frustrated in paragraph 3 by the reference to "international peace and security obligations". Moreover, Governments that were starved of funds and were often denied permission to import basic commodities were being urged to alleviate the humanitarian crisis in their countries.

6. Unless those serious shortcomings were remedied, she would be unable to support the draft resolution.

7. Mr. ALFONSO MARTÍNEZ said he had not sponsored the resolution because it failed to bring out a number of essential points. It should start by stating that tens of millions of people were being subjected to sanctions imposed unilaterally by a single State. The United States of America had imposed various types of sanctions on about 30 States, which were no longer described as "rogue States" but as "States of concern" because they refused to fall into line with the policies of a monopolistic Power. The illegal nature of such sanctions had not been mentioned.

8. He welcomed the replacement of the word "minimize" by "eliminate" in paragraph 1 (b). He viewed paragraph 3 as superfluous, since all States were required as a matter of course to respect human rights and their obligations under international humanitarian law.

9. All in all, however, he commended Mrs. Daes and the other sponsors for drawing attention to the fact that the use of economic sanctions to impose human rights was contrary to the spirit and letter of the Charter of the United Nations. He hoped that the draft resolution would be amended in such a way that he could support it without reservations.

10. Mr. KARTASHKIN suggested inserting the words "and other vital products" after the words "pharmaceutical supplies" in paragraph 1 (b) and paragraph 2.

11. Mr. PARK said that he deeply appreciated the initiative taken by Mrs. Daes and the other sponsors of the draft resolution and would not stand in the way of its adoption. However, he agreed with Mrs. Warzazi that the introductory phrase in paragraph 1 was too weak. The words "consider recommending" should be replaced by "request" or "recommend".

12. He proposed deleting the reference to the Security Council in paragraph 1 (a). Under the Charter of the United Nations, the Security Council was primarily responsible for maintaining international peace and security and could decide to impose sanctions under Article 43. As the Council could not be expected to disregard the possible humanitarian impact of such measures, it would be presumptuous to enjoin it to observe the provisions of human rights and international humanitarian law. He proposed rewording paragraph 1 (b) so that it stressed the need for the Security Council to give due consideration in imposing sanctions to the humanitarian impact on the civilian population. He also agreed with Mrs. Warzazi's proposal to replace the word "adequate" by "free".

13. He had some reservations regarding Mr. Kartashkin's proposed amendment to paragraphs 1 (b) and 2. It was natural in a humanitarian context to focus on the need for food and medicaments. "Vital products" might, however, include items prohibited under the sanctions imposed by the Security Council.

14. Mr. GUISSÉ said that steps should have been taken to prepare a text that was acceptable to all members before the draft resolution was submitted for adoption. He suggested that members with divergent views should produce a joint text for adoption later in the session.

15. Mr. PINHEIRO said that the Sub-Commission, in making its opposition to sanctions felt, was in good company, that of highly regarded non-governmental organizations (NGOs) such as Franciscans International and Dominicans for Justice and Peace, which had presented the

Commission on Human Rights with catastrophic data concerning the situation of children in Iraq, and the Justice and Peace Commission, which had strongly criticized the impact of situations on African countries such as Burundi. He would support any amendment acceptable to Mrs. Daes and the other sponsors that made the wording of the draft resolution more forceful.

16. Ms. HAMPSON expressed support for Mr. Kartashkin's proposed amendment to paragraph 3 but suggested rewording it to read "other products vital to the health of the population". That would cover, for example, essential equipment for ensuring a supply of clean drinking water.

17. Mrs. WARZAZI said she formally proposed the following amendments: deletion of the words "at least the core content of" in the fourth preambular paragraph; replacement of the words "consider recommending" in the introductory phrase of paragraph 1 by "recommend"; replacement of the phrase "that it consider restructuring sanctions regimes" in paragraph 1 (b) by "that, as a first step, it alleviate its sanctions regimes" and of the word "adequate" in the same subparagraph by "free". Lastly, she proposed the following new version of paragraph 3:

> "3. Urges Governments targeted by sanctions to respect their human rights obligations and to facilitate, by all means available to them, the alleviation of the humanitarian crisis in their countries pending the lifting of the sanctions."

18. Mrs. DAES said that she had no difficulty accepting all of Mrs. Warzazi's proposed amendments. She wished it to be placed on record that she had taken great pains to acquaint herself with the recommendations proposed by the Humanitarian Panel of the Security Council to ensure that the language of the draft resolution was in full accordance with the Sub-Commission's mandate and would in no way disturb the Sub-Commission's relationship with its parent bodies. She thanked members for their constructive comments and regretted that there had not been time for fuller consultations. It was to be hoped that the draft resolution would be adopted by consensus.

19. Mr. ALFONSO MARTÍNEZ expressed support for Mrs. Warzazi's proposed amendments and for the comments made by Mrs. Daes.

20. Mr. JOINET proposed that, in the sixth preambular paragraph, the words "in particular for" be replaced with the words "on the one hand in that it worsens the situation of" and that, after the words "indigenous peoples", the following words be inserted: "on the other hand in that it encourages a black market and corruption".

21. Mr. GUISSE, supported by Mrs. WARZAZI and Mr. FAN, said that Mr. Joinet's proposed amendment would unduly encumber the text.

22. Mrs. WARZAZI added that, if there were no objections to her proposed amendments, she would be willing to become a sponsor of the draft resolution.

23. Mr. OGURTSOV, referring to paragraph 1, subparagraph (a), expressed concern that the Sub-Commission should be appealing to the Commission on Human Rights to make a recommendation to the Security Council. He asked whether the proper institutional hierarchy was being respected.

24. Mr. FAN said that he fully supported the amendments proposed by Mrs. Warzazi and other members.

25. Mr. ALFONSO MARTÍNEZ said that he supported the amendments proposed by Mr. Kartashkin and Mrs. Warzazi in respect of paragraph 1, subparagraph (b). However, he could not support Mr. Joinet's proposed amendment since it introduced new issues, which would only complicate matters. Black markets were not confined to countries experiencing embargoes.

26. Mr. SIK YUEN said he agreed with the two previous speakers.

27. Mr. JOINET, supported by Ms. HAMPSON, said that it was a well-known fact that embargoes automatically led to the formation of black markets and provided fertile grounds for mafia activity. All too often, such corruption became institutionalized, and remained even after an embargo had been lifted. He did not mean to suggest that the responsibility for such corruption lay with the States being targeted by sanctions. He was not in favour of embargoes. If, however, his proposed amendment was not accepted, he would not become a sponsor.

28. Mr. PARK, supported by Mr. GUISSÉ, said that Mr. Ogurtsov had raised an important point. He was in favour of deleting the reference to Security Council from paragraph 1, subparagraph (a). He personally had no intention of taking part in any attempts to interfere with the functions of the Council. As for subparagraph (b), it was surely not for the Sub-Commission to direct the Security Council to restructure its sanctions regimes.

29. Ms. HAMPSON said that, in paragraph 1, subparagraph (b), it was essential to refer not just to "vital products", but to "products vital to the health of the population". That would also cover such products as chemicals necessary to the operation of sanitation plants. Although she had no sympathy with sanctions, she would be forced to withdraw as a sponsor if the words "international peace and security obligations" were deleted from paragraph 3.

30. Mr. GUISSÉ explained that he objected to Mr. Joinet's proposed amendment not because he opposed it in principle, but because he was concerned that it would dilute the text and make it less coherent, and less likely to be adopted by consensus.

31. Mr. ALFONSO MARTÍNEZ concurred with Mr. Guissé. He could not agree with Mr. Joinet that the lifting of sanctions automatically led to a continued black market. With regard to paragraph 1, subparagraph (b), the expression proposed by Mr. Kartashkin ("vital products"), would also cover products vital to the health of the population. He did, however, fully support the point made by Ms. Hampson in respect of paragraph 3.

32. Mr. WEISSBRODT said that it was with great regret that he was taking the floor. The Sub-Commission should reconsider its approach to the drafting process, which was always highly problematic in public. It had just spent over an hour discussing the draft resolution.

According to the rules of procedure, however, sponsors should not be proposing sub-amendments at all. He did, however, feel bound to point out that the proposed deletion of the words "at least the core content" would amount to a misquotation of General Comment 8. Since he disagreed with the manner in which the drafting process was being approached and had grave reservations over the amendments proposed by Mr. Park, Mr. Ogurtsov and others, he felt bound to withdraw as a sponsor.

33. Mr. JOINET said that he was sorry not to have been in a position to propose his amendment at an earlier stage, but he had only just received the French version of the text. In connection with Mr. Guissé's comment, he failed to understand why a few additional words would encumber the text. However, Mrs. Warzazi and Mr. Rodriguez-Cuadros had inspired him to qualify the statement he was proposing for insertion in the sixth preambular paragraph. Proposing a sub-amendment to his own amendment, he said that the words "all too often" could be inserted before the words "black market". He was tempted to add the phrase "outside as much as inside the country concerned", but did not want to be accused of encumbering the text still further.

34. Mrs. WARZAZI asked that the meeting be suspended to allow for consultations between the sponsors, especially since Mr. Weissbrodt had withdrawn as a sponsor. She was prepared to make a concession to Ms. Hampson and accept her proposed amendment to paragraph 1, subparagraph (b), on the condition that she would be willing to accept a compromise formula for operative paragraph 3. Her proposal was that, after the word "sanctions", the words "as well as those Governments responsible for the implementation of those sanctions" would be inserted, that the word "their" after the word "respect" would be deleted, and that the word "obligations" would be inserted after the word "rights".

35. The CHAIRPERSON said that, if there were no objections, she would suspend the meeting.

36. Mr. GUISSÉ said that he was not in favour of a suspension.

37. Mr. KARTASHKIN said that all proposed amendments should be disregarded and the original text adopted by consensus.

The meeting was suspended at 4.20 p.m. and resumed at 4.50 p.m.

38. The CHAIRPERSON said that the sponsors of the original text, apart from Mr. Weissbrodt who had confirmed his withdrawal, had accepted most of the proposed amendments. In the fourth preambular paragraph, the words "in which the Committee maintained" would be deleted and replaced by "and considering"; the words "do everything possible" would also be deleted. At the end of the sixth preambular paragraph, the following words would be added "also deplores that embargoes all too often stimulate the black market and corruption". In paragraph 1, the words "consider recommending" would become "recommend", in subparagraph (a), the words "including the Security Council" would be deleted and, in subparagraph (b), the words "and other products vital to the health of the population" would be inserted after the word "supplies". The same words would be added after the word "supplies" in

paragraph 2. In paragraph 3, the words "as well as those Governments responsible for the implementation of those sanctions" would be added after the word "sanctions" and the word "obligations" would be inserted after the word "rights".

39. Mr. JOINET announced that he had become a sponsor of the draft resolution.

40. Mrs. DAES, thanking all the sponsors for their constructive approach, said it had been agreed that, in paragraph 1, subparagraph (b), the words "consider restructuring" would be replaced by the words "as a first step alleviates". Proposing a sub-amendment to the sixth preambular paragraph, she said that the words "also deplores" should be replaced by the word "deploring".

41. The draft resolution, as orally revised and amended, was adopted.

COMPREHENSIVE EXAMINATION OF THEMATIC ISSUES RELATING TO THE ELIMINATION OF RACIAL DISCRIMINATION:

(a) SITUATION OF MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES;

(b) XENOPHOBIA;

(c) WORLD CONFERENCE AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE

(agenda item 3) (continued) (E/CN.4/Sub.2/2000/L.7, L.8 and L.12-L.14)

Draft decision on the rights of non-citizens (E/CN.4/Sub.2/2000/L.7)

42. Mr. YOKOTA, introducing the draft decision on behalf of its sponsors, said that the purpose of the decision was to appoint Mr. Weissbrodt as Special Rapporteur on the rights of non-citizens, an important topic which required an in-depth study and on which Mr. Weissbrodt had submitted a working paper (E/CN.4/Sub.2/1999/7) to the Sub-Commission at its previous session.

43. Mr. ALFONSO MARTÍNEZ said that he fully supported the appointment of Mr. Weissbrodt as Special Rapporteur with the task of preparing a comprehensive study on the rights of non-citizens, even though he did not share completely the ideas expressed in Mr. Weissbrodt's working paper.

44. Mr. JOINET said he wished to become a sponsor of the draft resolution.

45. The draft resolution was adopted.

Draft decision on the concept and practice of affirmative action (E/CN.4/Sub.2/2000/L.8)

46. Mr. ALFONSO MARTÍNEZ and Mr. JOINET said that they wished to become sponsors of the draft decision.

47. The draft decision was adopted.

Draft resolution on the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and migrant workers (E/CN.4/Sub.2/2000/L.12)

48. Mr. JOINET and Mr. BENGOA said they wished to become sponsors of the draft resolution.

49. The draft resolution was adopted.

Draft resolution on the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (E/CN.4/Sub.2/2000/L.13)

50. Mr. OLOKA-ONYANGO said he wished to become a sponsor of the draft resolution.

51. Mrs. DAES said that subparagraph (f) of the fourteenth preambular paragraph should be corrected to read "The working paper on proposals for the work of the World Conference relating to discrimination against indigenous peoples submitted by Ms. Erica-Irene Daes on 1 May 2000".

52. Mr. OGURTSOV said that, in paragraph 11 of the Russian version, "7 November 2001" should be corrected to "7 September 2001".

53. Mr. JOINET said that, despite the holding of two very expensive world conferences, the situation with regard to racism, racial discrimination, xenophobia and related intolerance appeared to be getting worse. He suggested that the first item on the agenda of the forthcoming World Conference should be a review of the effectiveness of the previous conferences. He also noted that, while discrimination based on gender was mentioned in paragraph 17 of the draft resolution, there was no mention of discrimination based on sexual orientation. It would be unfortunate if the World Conference ignored discrimination against homosexuals, which was a major aspect of discrimination. Notwithstanding those misgivings, he was prepared to become a sponsor of the draft resolution as it stood.

54. Mr. PINHEIRO pointed out that his working paper containing proposals for the work of the World Conference (A/CONF.189/PC.1/13/Add.1) included a critical review of the previous world conferences.

55. Mrs. WARZAZI pointed out that the "intolerance" in the title of the World Conference referred to intolerance related to racism, racial discrimination and xenophobia, and that the discrimination referred to by Mr. Joinet was not within the remit of the Conference.

56. Mr. FAN said that the World Conference was not intended to deal with all possible forms of discrimination. According to article 2 of the Universal Declaration of Human Rights, everyone was entitled to all the rights and freedoms set forth there without distinction of any kind; it would be very difficult for any single conference to discuss all possible distinctions.

57. Mr. JOINET said that a reference to a specific paragraph of Mr. Pinheiro's working paper, which did indeed include the kind of review he had suggested, might be appropriate. He accepted Mrs. Warzazi's argument that discrimination on the basis of sexual orientation was not covered by the title of the World Conference, although the same argument applied to gender-based discrimination. Perhaps a study was called for to clarify the issue.

58. Mr. FAN said that he was concerned that the inclusion of too many new elements, each of which was undoubtedly important in itself, was drawing attention away from the most important elements.

59. Mr. PARK said that the draft resolution was a very lengthy one and suggested that preambular paragraph 4 could be deleted, as the increase in the number of cases of racism, racial discrimination, xenophobia and related intolerance was covered in the sixth preambular paragraph. He also suggested that, in paragraph 16, the active and effective participation in the World Conference of all "relevant" organs of society should be encouraged, as the phrase "all organs of society from all parts of the world" was rather vague.

60. Mrs. WARZAZI said that the second and third lines of the sixth preambular paragraph should read "... and its effects on the right to development ... and on the increase in the phenomena of ...", not "at the increase". As the Sub-Commission was expressing its concern at the effects of globalization on the increase in racism, racial discrimination, xenophobia and related intolerance, there was no repetition of the fourth preambular paragraph.

61. Mr. YOKOTA suggested the following wording to clarify paragraph 16: "Encourages the active and effective participation in the World Conference of all relevant organs and agencies of the United Nations and other intergovernmental and non-governmental organizations, including those representing ...".

62. Ms. MBONU said that Mr. Yokota's suggested change would exclude civil society, which had a very important role to play; the paragraph should therefore be left as it stood.

63. Mr. WEISSBRODT said that the term "organ of society" was taken directly from the Universal Declaration of Human Rights and he therefore hoped that Mr. Yokota would not insist on changing it. He agreed with Mr. Park that the fourth preambular paragraph could be omitted and with Mr. Joinet that a reference to Mr. Pinheiro's working paper could be included. After the various linguistic corrections and Mrs. Daes' factual correction had been incorporated, he believed the text could be adopted by consensus.

64. The draft resolution, as orally revised, was adopted.

Draft resolution on discrimination based on occupation and descent (E/CN.4/Sub.2/2000/L.14)

65. Ms. HAMPSON said that discrimination based on occupation and descent continued to affect much of the world's population. The subject was one currently being considered by the Committee on the Elimination of Racial Discrimination, and one in which Mr. Goonesekere, who would be entrusted with the task of preparing a working paper on the topic, had wide experience. Mr. Guissé had joined the sponsors of the draft resolution, which she hoped the Sub-Commission would adopt.

66. Mr. PINHEIRO, Mrs. DAES and Mr. EIDE said that they wished to become sponsors of the draft resolution.

67. Mrs. WARZAZI, supported by Mr. GUISSÉ, said that the word occupation in the French version seemed unsuitable and should be replaced, perhaps by métier.

68. Ms. MBONU said that there had been no prior discussion about the text, and she would like to have the words "occupation and descent" clarified.

69. Mr. JOINET said he thought that the word emploi would be the most suitable one in the French text.

70. Mr. GOONESEKERE said that the purpose of the draft resolution was to address a situation in which, as already mentioned, families in many parts of the world were trapped in a rigidly stratified system from which there was little chance of escape. It was not a criticism of Governments; indeed, many Governments were already taking steps to deal with the problem. There were, however, difficulties - as recognized in the activities of the Working Group on Contemporary Forms of Slavery - regarding the implementation of laws and overcoming a general lack of awareness. He felt that the topic warranted the Sub-Commission's attention, and he was ready to undertake the task of preparing a working paper accordingly.

71. Mr. ALFONSO MARTÍNEZ said he agreed with Ms. Mbonu about the lack of prior discussion. Although he had no objection to the preparation of a working paper, he would reserve his final opinion on the matter until the Sub-Commission's next session. With regard to the Spanish version of the draft, the word oficio might be better than profesión.

72. Mr. YIMER, referring to paragraphs 2 and 3, said he wondered what difference was implied between "relevant Governments" and "Governments concerned".

73. Ms. HAMPSON said that, while she would prefer to retain the word "occupation" in the English version, she could accept the word "work".

74. The operative part of draft resolution E/CN.4/Sub.2/2000/L.13, already adopted at the current meeting, invited the World Conference to consider, inter alia, problems of discrimination based on descent and the implications of multiple identities - which meant that the Sub-Commission had indeed thought about such issues and considered them suitable for consideration by the Conference. The purpose of the working paper proposed in the current draft

resolution would be to facilitate further discussion at the Sub-Commission's next session. She would have no difficulty in replacing the word "concerned" by "relevant", since it would be up to Governments themselves to determine whether or not the matter warranted their attention.

75. Mr. GUISSÉ said that, in the French text, the word métier would be preferable to emploi, since a feature of the situation in question was the confinement to a father-to-son trade as the sole means of earning a living.

76. Mr. EIDE said that the subject had indeed been considered, in the deliberations of the Working Group on Minorities and other forums. The draft resolution should be adopted, the semantic and other details left to the Rapporteur and the secretariat, and the resultant working paper discussed at the Sub-Commission's next session.

77. Mrs. DAES said that, to enable the draft to be adopted by consensus, the term "concerned" should be used in paragraphs 2 and 3 and, if necessary, the word "work" could replace "occupation", although she would prefer the latter.

78. Mr. ALFONSO MARTÍNEZ, referring to paragraphs 2 and 3, proposed that the adjectives should be omitted, the text thus referring simply to "Governments". He would prefer to omit operative paragraphs 2 and 3 altogether but would not insist on that, although he strongly urged deletion of the adjectives.

79. Mr. JOINET said that he, too, was in favour of deleting paragraphs 2 and 3.

80. Mr. RODRÍGUEZ-CUADROS proposed that the Sub-Commission should decide on the draft without further debate since, if it was adopted, the Sub-Commission would have ample opportunity, at its next session, for a discussion of the subject on the basis of the working paper.

81. Ms. HAMPSON said that the sponsors could agree to the deletion of the words "relevant" and "concerned" but not to the deletion of paragraphs 2 and 3. With a view to achieving a consensus, the word "occupation" could be replaced by "work" in order to facilitate the use of the word emploi in the French text.

82. Ms. MBONU said that, had the matter been put to a vote, she would have voted against the draft resolution; she would not, however, oppose its adoption by consensus.

83. The CHAIRPERSON said that, on that understanding, she took it that the Sub-Commission wished to adopt the draft resolution.

84. The draft resolution, as orally amended, was adopted.

The meeting rose at 6.10 p.m.